

## **BILL ANALYSIS**

Senate Research Center

S.B. 1867  
By: Jackson, Mike  
Intergovernmental Relations  
7/27/2005  
Enrolled

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

S.B. 1867 creates the National Aeronautics and Space Administration (NASA) Area Management District (district) as a political subdivision of the State of Texas to administer and provide funding for community improvement projects and services in the district, which is located entirely within the City of Nassau Bay and Harris County. The district will be a municipal management district similar to those operating pursuant to Chapter 375 (Municipal Management Districts in General), Local Government Code, and Title 4 (Development and Improvement), Special Districts Code.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. NASA AREA MANAGEMENT DISTRICT. Amends Subtitle C, Title 4, Special District Local Laws Code, by adding Chapter 3846, as follows:

#### **CHAPTER 3846. NASA AREA MANAGEMENT DISTRICT**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 3846.001. DEFINITIONS. Defines "board" and "district."

Sec. 3846.002. NASA AREA MANAGEMENT DISTRICT. Provides that the NASA Area Management District (district) is a special district created under Section 59 (Conservation and Development of Natural Resources and Parks and Recreational Facilities; Conservation and Reclamation Districts), Article XVI, Texas Constitution.

Sec. 3846.003. PURPOSE; DECLARATION OF INTENT. (a) Provides that the creation of the district is essential to accomplish the purposes of Sections 52 (Counties, Cities or Other Political Corporations or Subdivisions; Lending Credit;

Grants; Bonds) and 52-a (Loan or Grant of Public Money for Economic Development), Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. Provides that, by creating the district and in authorizing the City of Nassau Bay (city), Harris County (county), and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) Provides that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district territory.

(c) Prohibits this chapter and the creation of the district from being interpreted to relieve Harris County or the City of Nassau Bay from providing the level of services provided, as of the effective date of the Act enacting this chapter, to the area in the district. Provides that the district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3846.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) Provides that the district is created to serve a public use and benefit.

(b) Provides that all land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) Provides that the creation of the district is in the public interest and is essential to accomplish certain objectives.

(d) Provides that the district will serve certain functions

(e) Provides that pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) Provides that the district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3846.005. DISTRICT TERRITORY. (a) Provides that the district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under certain statutes.

(b) Provides that the boundaries and field notes of the district contained in Section 2 of the Act enacting this chapter form a closure. Provides that a mistake in the field notes or in copying the field notes in the legislative process does not in any way affect certain aspects of the district.

Sec. 3846.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. Provides that all or any part of the area of the district is eligible to be included in certain tax increment, tax abatement and enterprise zones.

Sec. 3846.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Provides that, except as otherwise provided by this chapter, Chapter 375 (Municipal Management Districts in General), Local Government Code, applies to the district.

Sec. 3846.008. LIBERAL CONSTRUCTION OF CHAPTER. Requires this chapter to be liberally construed in conformity with the findings and purposes stated in this chapter.

[Reserves Sections 3846.009-3846.050 for expansion.]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3846.051. BOARD OF DIRECTORS; TERMS. (a) Provides that the district is governed by a board of seven voting directors (board) who serve staggered terms of four years, with three or four directors' terms expiring June 1 of each odd-numbered year.

(b) Authorizes the governing body of the city to change the number of voting directors on the board. Prohibits the board from consisting of fewer than five or more than 15 voting directors.

Sec. 3846.052. APPOINTMENT OF DIRECTORS. (a) Requires the mayor and members of the governing body of the city to appoint voting directors. Provides that a person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

(b) Provides that Section 375.063 (Qualifications of Director), Local Government Code, does not apply to the district.

Sec. 3846.053. NONVOTING DIRECTORS. (a) Provides that persons holding certain offices serve as nonvoting directors.

(b) Authorizes the board, if a department described by Subsection (a) is consolidated, renamed, or changed, to appoint a director of the consolidated, renamed, or changed department as a nonvoting director. Authorizes the board, if a department described by Subsection (a) is abolished, to appoint a representative of another department that performs duties comparable to those performed by the abolished department.

Sec. 3846.054. QUORUM. Provides that, for purposes of determining the requirements for a quorum, certain considerations are not taken into account.

Sec. 3846.055. INITIAL VOTING DIRECTORS. (a) Requires the mayor and members of the governing body of the City of Nassau Bay to appoint the initial seven voting directors by position.

(b) Provides that, of the initial voting directors, the terms of directors appointed for positions 1 through 4 expire June 1, 2007, and the terms of directors appointed for positions 5 through 7 expire June 1, 2009.

(c) Provides that Section 3846.052 does not apply to this section.

(d) Provides that this section expires September 1, 2010.

[Reserves Sections 3846.056-3846.100 reserved for expansion.]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 3846.101. ADDITIONAL POWERS OF DISTRICT. Authorizes the district to exercise the powers given to certain entities by statute.

Sec. 3846.102. NONPROFIT CORPORATION. (a) Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) Sets forth certain powers of the nonprofit corporation.

(c) Requires the board to appoint the board of directors of the nonprofit corporation. Provides that a director of the corporation is not required to reside in the district.

(d) Requires the board of directors of the nonprofit corporation to serve in the same manner as the board of directors of a local government corporation created under Chapter 431 (Texas Transportation Corporation Act), Transportation Code.

Sec. 3846.103. AGREEMENTS; GRANTS. (a) Authorizes the district to make an agreement with or accept a gift, grant, or loan from any person.

(b) Provides that the implementation of a project is a governmental function or service for the purposes of Chapter 791 (Interlocal Cooperation Contracts), Government Code.

Sec. 3846.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. Authorizes the district to contract with a qualified provider, including Harris County or the city, to provide law enforcement services in the district for a fee, to protect the public interest.

Sec. 3846.105. APPROVAL BY CITY OF NASSAU BAY. (a) Requires the district, except as provided by Subsection (c), to obtain the approval of the city's governing body to take certain actions regarding taxes, bonds, and plans.

(b) Requires the approval obtained under Subsection (a)(1), (2), or (3) to be a resolution by the city. Requires the approval obtained under Subsection (a) for plans and specifications to be a permit issued by the city.

(c) Authorizes the district, if the district obtains the approval of the city's governing body of a capital improvements budget for a period not to exceed five years, to finance the capital improvements and issue bonds specified in the budget without further approval from the city.

(d) Authorizes the city and the district to agree on conditions for obtaining the approval of the city under this section, including an agreement for the approval of a sales and use tax that requires the district to abolish or decrease the rate of the tax if the rate, when combined with other local sales and use taxes, results in a combined tax rate of more than two percent in any location in the district.

Sec. 3846.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. Authorizes the district to join and pay dues to certain organizations.

Sec. 3846.107. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER POWERS RELATED TO PLANNING AND DEVELOPMENT. (a) Authorizes the district to establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs that serve certain purposes.

(b) Provides that the district has all of the powers of a municipality under Chapter 380 (Miscellaneous Provisions Relating to Municipal Planning and Development), Local Government Code.

Sec. 3846.108. ANNEXATION. Authorizes the district, in addition to the authority to annex territory under Subchapter J (Annexation or Exclusion of Land), Chapter 49 (Provisions Applicable to All Districts), Water Code, to annex by board resolution territory located in the city if the city's governing body votes in favor of the annexation.

Sec. 3846.109. NO EMINENT DOMAIN. Prohibits the district from exercising the power of eminent domain.

[Reserves Sections 3846.110-3846.150 reserved for expansion.]

#### SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3846.151. DISBURSEMENTS AND TRANSFERS OF MONEY. Requires the board by resolution to establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3846.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. Authorizes the district to acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3846.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) Prohibits the board from financing a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) Sets forth signature requirements for a petition filed under Subsection (a).

Sec. 3846.154. METHOD OF NOTICE FOR HEARING. Authorizes the district to mail the notice required by Section 375.115(c) (relating to the issuance of a notice of a hearing), Local Government Code, by certified United States mail or an equivalent service that can provide a record of mailing or other delivery.

Sec. 3846.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) Authorizes the board by resolution to impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) Provides that an assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district, take priority as a certain type of lien and are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) Provides that the lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. Authorizes the board to enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) Authorizes the board to make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3846.156. PROPERTY EXEMPT FROM IMPACT FEES, ASSESSMENTS, TAXES, AND OTHER REQUIREMENTS. (a) Prohibits the district from imposing an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of certain utilities and various other service providers.

(b) Provides that Section 375.161 (Certain Residential Property Exempt), Local Government Code, does not apply to the district.

Sec. 3846.157. BONDS AND OTHER OBLIGATIONS. (a) Authorizes the district to issue by competitive bid or negotiated sale bonds or other obligations payable wholly or partly from taxes, assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) Authorizes the district to issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) Provides that Section 375.243 (Election Required for Bond Election), Local Government Code, does not apply to the district.

Sec. 3846.158. CITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Provides that, except as provided by Section 375.263 (Dissolution by Municipal Ordinance), Local Government Code, the city is not required to pay a bond, note, or other obligation of the district.

Sec. 3846.159. **COMPETITIVE BIDDING.** Provides that Section 375.221 (Competitive Bidding on Certain Public Works Contracts), Local Government Code, applies to the district only for a contract that has a value greater than \$25,000.

Sec. 3846.160. **TAX AND ASSESSMENT ABATEMENTS.** Authorizes the district to grant in the manner authorized by Chapter 312 (Property Redevelopment and Tax Abatement Act), Tax Code, an abatement for a tax or assessment owed to the district.

[Reserves Sections 3846.161-3846.200 for expansion.]

#### **SUBCHAPTER E. SALES AND USE TAX**

Sec. 3846.201. **MEANINGS OF WORDS AND PHRASES.** Provides that words and phrases used in this subchapter that are defined by Chapters 151 (Limited Sales, Excise, and Use Tax) and 321 (Municipal Sales and Use Tax Act), Tax Code, have the meanings assigned by Chapters 151 and 321, Tax Code.

Sec. 3846.202. **APPLICABILITY OF CERTAIN TAX CODE PROVISIONS.**

(a) Provides that, except as otherwise provided by this subchapter, Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code, apply to taxes imposed under this subchapter and to the administration and enforcement of those taxes in the same manner that those laws apply to state taxes.

(b) Provides that the provisions of Subchapters B, C, and D, Chapter 321, Tax Code, relating to municipal sales and use taxes apply to the application, collection, change, and administration of a sales and use tax imposed under this subchapter to the extent consistent with this chapter, as if references in Chapter 321, Tax Code, to a municipality referred to the district and references to a governing body referred to the board.

(c) Provides that Sections 321.401 (Calling of Election), 321.402 (Deadlines After Petition), 321.403 (Time of Election), 321.404 (Ballot Wording), 321.405 (Official Results of Election), and 321.406 (Frequency of Election) and Subchapter F, Chapter 321, Tax Code, do not apply to a tax imposed under this subchapter.

Sec. 3846.203. **AUTHORIZATION.** Authorizes the district to adopt a sales and use tax for the benefit of the district. Provides that the board is not required to call an election to adopt the tax.

Sec. 3846.204. **ABOLISHING SALES AND USE TAX.** (a) Authorizes the board, except as provided in Subsection (b), to abolish the sales and use tax



without an election with the consent of the governing body of the City of Nassau Bay.

(b) Prohibits the board from abolishing the sales and use tax if the district has outstanding debt secured by the tax.

Sec. 3846.205. SALES AND USE TAX RATE. (a) Provides that, on adoption of the tax authorized by this subchapter, there is imposed a tax at the rate authorized by the district on the receipts from the sale at retail of taxable items within the district, and an excise tax on the use, storage, or other consumption within the district of taxable items purchased, leased, or rented from a retailer within the district during the period that the tax is in effect.

(b) Provides that the rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the taxable item.

[Reserves Sections 3846.206-3846.250 for expansion.]

#### SUBCHAPTER F. DISSOLUTION

Sec. 3846.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT.

(a) Authorizes the board to dissolve the district regardless of whether the district has debt. Provides that Section 375.264, Local Government Code, does not apply to the district.

(b) Requires the district, if the district has debt when it is dissolved, to remain in existence solely for the purpose of discharging its debts. Provides that the dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. Sets forth the boundaries of the district.

SECTION 3. LEGISLATIVE FINDINGS. Provides that all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 4. EFFECTIVE DATE. Effective date: upon passage or September 1, 2005.

## **BILL ANALYSIS**

Senate Research Center

S.B. 1870  
By: Seliger  
Natural Resources  
6/13/2005  
Enrolled

### **AUTHOR'S/SPONSOR'S STATEMENT OF INTENT**

The Martin County Underground Water Conservation District was formed in 1985 as a single county underground water district located in Martin County. In 1991, the district's enabling legislation was amended to include parts of neighboring Howard County and to change the name of the district to the Permian Basin Underground Water Conservation District (district). The 1991 legislation allowed the board of directors to address the board's directorship by resolution, which it did in 2001 following legislation to annex additional land in Howard County.

The resolution passed by the board in 2001 increased the board from five to six directors in order to elect three directors from each county. Due to language in the 1991 legislation, the board is restricted from doing so. The current statutory requirements for the board allow four directors from Martin County, one director from Howard County, and one at-large director.

S.B. 1870 allows the district to elect from five to nine directors and requires that there be an equal number of directors elected from each county as well as one at-large director. In addition, S.B. 1870 includes a conforming change to reference the correct chapter in the Water Code related to annexation and includes validation language to validate the current board and the actions of the district to date.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 11, Chapter 408, 69th Legislature, Regular Session, 1985, to authorize additional territory to be added to the Permian Basin Underground Water Conservation District (district) as provided by Chapter 36 (Groundwater Conservation Districts), rather than Chapter 52 (Underground Water Conservation Districts), Water Code. Deletes existing text requiring the board of directors to determine to which precinct the annexed land will be added for purposes of the election of the board.

SECTION 2. Amends Section 12(a), Chapter 408, 69th Legislature, Regular Session, 1985, to require the district to be governed by a board of directors (board) that consists of not more than five and not more than nine directors, rather than five directors. Deletes the exception to the rule that there are five directors unless the number of directors is increased in accordance with Section 12A of this Act. Authorizes the number of directors to be changed as determined by the board when territory is annexed by the district.

SECTION 3. Amends Chapter 408, 69th Legislature, Regular Session, 1985, by adding Section 12B, as follows:

Sec. 12B. BOARD COMPOSITION AND ELECTIONS FOLLOWING ANNEXATION OF TERRITORY. (a) Requires the board, if the district contains territory in more than one county, to consist of an equal number of directors elected from each county and one director elected from the district at large.

(b) Sets forth the eligibility requirements for a person to serve as a director at large or as a director from a county in the district.

(c) Requires the person to indicate on the application for a place on the ballot the county that the person seeks to represent or that the person seeks to represent the district at large.

SECTION 4. Repealer: Section 12A, Chapter 408, 69th Legislature, Regular Session, 1985.

SECTION 5. (a) Validates and confirms all acts and proceedings of the district taken before the effective date of this Act and the election or appointment of directors or other officers of the district who took office before the effective date of this Act as if the actions had been done as authorized by law.

(b) Prohibits a governmental act or proceeding of the district occurring after an act or proceeding validated by this Act from being held invalid on the ground that the prior act or proceeding, in the absence of this Act, was invalid.

(c) Sets forth certain matters to which this section does not apply.

SECTION 6. (a) Provides that a director of the district serving on the effective date of this Act continues to serve until the expiration of the term for which the director was elected.

(b) Requires one director to be elected from the district at large, in addition to the election of one director from Martin County and one director from Howard

County, in the first regularly scheduled directors' election for the district after the effective date of this Act.

SECTION 7. Effective date: upon passage or September 1, 2005.